



YEMEN

Invisible Civilians

The Challenge of Humanitarian Access
in Yemen's Forgotten War

HUMAN
RIGHTS
WATCH



Invisible Civilians

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Forgotten War**

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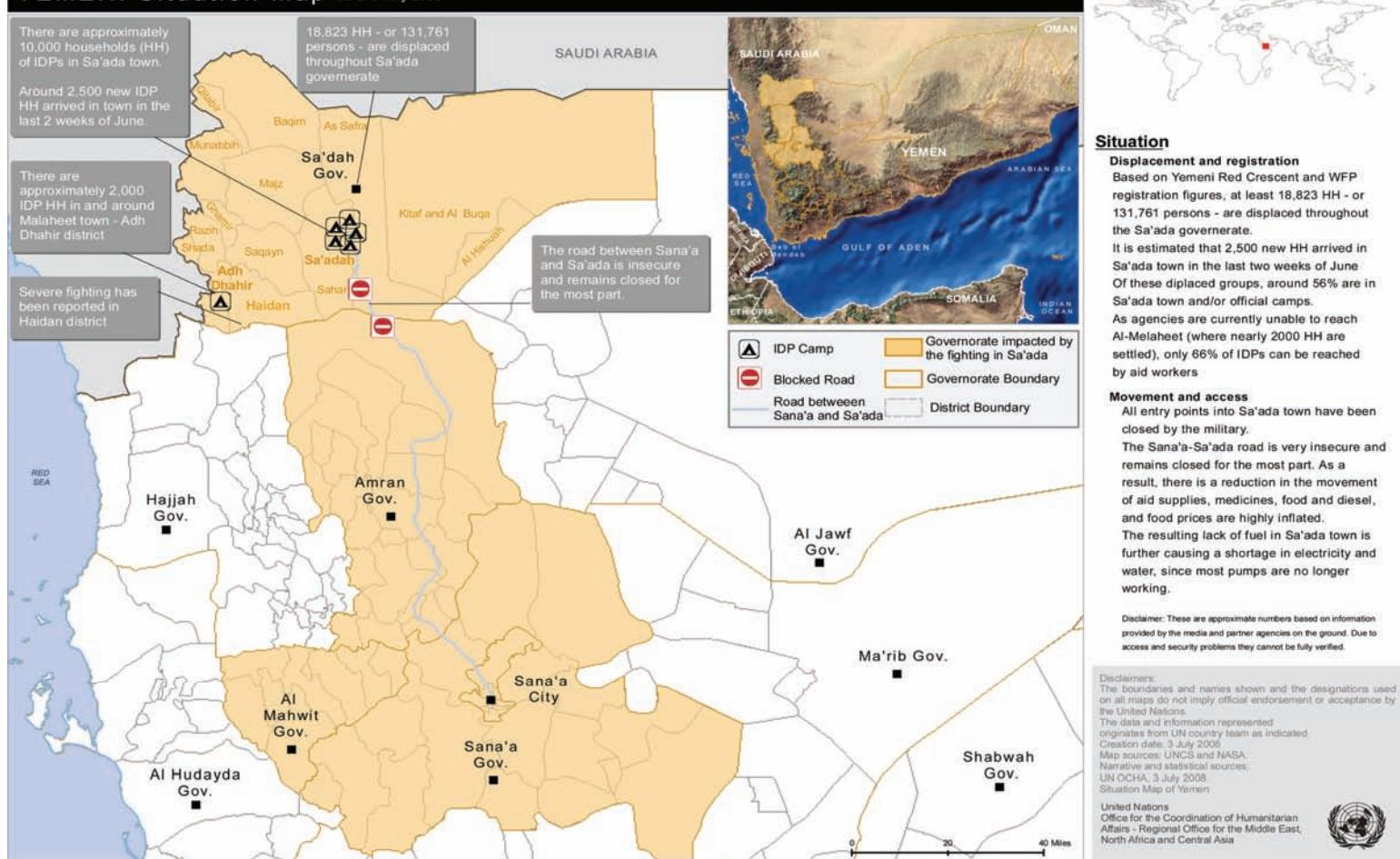
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Yemen Map

YEMEN: Situation Map - as of 3 July 2008



Map provided courtesy of the UN Office for the Coordination of Humanitarian Affairs. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
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I. Summary

Since June 2004 an armed conflict in northern Yemen all but ignored outside the country has displaced up to 130,000 people, a great many of whom remained out of the reach of humanitarian agencies as of October 2008. Caught between the government and an armed group known as the Huthis, these displaced civilians are among the invisible victims of war.

Particularly since 2007, when international aid agencies sought to reach all parts of the northern Sa'da governorate, Yemeni authorities have severely restricted humanitarian access to tens of thousands of civilians in need. After a fifth round of fighting erupted in May 2008, the government blocked the movement of all commercial goods, including staple foods and fuel, an act that appears to constitute an illegal collective punishment.

By mid-July 2008, when the Yemeni President Ali Abdullah Saleh declared an end to the fighting, 60,000 displaced persons had found refuge in Sa'da town, where they received limited assistance in seven camps serviced by national and international aid agencies. However, tens of thousands of others—possibly as many as 70,000 persons—had been displaced in remote areas or urban areas other than Sa'da town, where government restrictions meant they remained largely inaccessible to aid agencies.

Furthermore, between February 2007 and July 2008 the government imposed a total information blackout on Sa'da governorate. It has clamped down on media coverage, banning local and international journalists from traveling anywhere in the governorate, threatening journalists covering the conflict, and arbitrarily arresting internet webmasters and others with information on civilian casualties. The government cut off most mobile phone subscribers, allowing only a few government-vetted individuals access to the network.

The result of the government's systematic, sustained, and non-transparent policy of limiting access and information is that tens of thousands of civilians directly affected

by the war have been left to suffer, their plight hidden from the rest of Yemen and the outside world. The denial of humanitarian access is in contravention of international humanitarian law that provides that a civilian population is entitled to receive humanitarian relief essential to its survival.

Since the declared end of fighting in July 2008, the government has told international humanitarian agencies that they have full and unrestricted access to the whole of Sa'da governorate. However, the reality is different. Many agencies must ask separate Interior Ministry permission for each and every trip, an almost impossible operational requirement. By the end of September 2008, the government allowed aid agencies access to a limited number of towns in Sa'da governorate, but well into October this expanded access was insufficient to reach many of those who have long gone without assistance and who remain at risk.

The government's tight restrictions on access for humanitarian agencies and journalists, even after the conflict was declared over, has meant that only limited information is available on the extent of civilian displacement, the degree of insecurity faced by the population, and the conduct of the fighting. The government asserts that insecurity requires it to broadly restrict humanitarian access—but the restrictions themselves have made it difficult to either confirm or challenge this position. However, international humanitarian law is clear—only “imperative military necessity” can justify restrictions on humanitarian access, and then only strictly temporarily.

The Huthi rebels have also failed to facilitate humanitarian access to areas under their control.

For fear of losing the limited access they do have, non-governmental humanitarian organizations have understandably been reluctant to put significant behind-the-scenes—let alone public—pressure on the government or the rebels to reverse their limitations on humanitarian access.

United Nations agencies in Yemen made some discrete approaches to the government to increase access, with very limited success. The UN apparently did

little, even discreetly, to press either the government or the Huthi rebels to respect their obligations under international humanitarian and human rights law to protect the war-affected population, including the tens of thousands of displaced.

Similarly, international donors, including the European Union (EU) and its member states, have kept a very low profile over the conflict since it erupted in 2004. Almost certainly due to their concerns about political stability in a country with a large Al-Qaeda presence as well as significant development challenges, donors have been reluctant to press the government on its conduct of the fighting and on the issue of humanitarian access. In July 2008 EU states attempted to formulate a unified approach to government on the issue of access but were unable to reach an agreement.

Although on July 17, 2008, President Saleh declared the fifth round of fighting—and effectively the entire armed conflict—to be over, many who witnessed the end of previous rounds of fighting fear that without a written and monitored peace agreement, modeled on an agreement mediated by Qatar in 2007, further fighting will engulf Sa'da governorate in the near future.

Even if the armed conflict does not resume, international humanitarian law requires access for humanitarian assistance linked to the conflict, and international human rights law ensures the right to freedom of movement, including that of aid workers.

Human Rights Watch calls on the government of Yemen and the Huthis to take immediate steps to ensure that impartial aid agencies have safe, reliable, and sustained access to all parts of Sa'da governorate in order to assist the many civilians desperate for assistance.

Human Rights Watch also calls on the UN Resident Coordinator to urge the government and the Huthis to respect their obligations under international humanitarian law, and on international donors to play a concerted and meaningful role in pressing the government and the Huthis to grant unhindered access to all war-affected civilians.

II. Methodology

This report is based on research carried out in Yemen's capital San'a from July 13 to July 31, 2008 by two Human Rights Watch researchers and a consultant who conducted 97 interviews with victims and eyewitnesses of human rights violations, journalists, human rights activists, staff of humanitarian agencies, academics, political leaders, and government officials. For this report we conducted additional phone interviews and correspondence with humanitarian agencies through October 21, 2008.

Human Rights Watch published a related report, *Yemen: Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels*, on October 24, 2008.

Organizations that helped Human Rights Watch to contact individuals with knowledge about the conflict area include local human rights organizations and members of the Socialist Party, the Islah Party, the Haqq Party, and the ruling General People's Congress.

Most interviews were conducted in Arabic. Two Yemenis interpreted for one of the researchers and the consultant. The third researcher conducted interviews in Arabic. All interviews were conducted in San'a. We are grateful to the Yemen Ministry of Foreign Affairs and the Ministry of Human Rights for promptly accommodating our requests to meet with them in San'a. However, despite Human Rights Watch's requests, by telephone on July 23 and in writing on July 28, we did not receive official permission to travel to Sa'da governorate.

In this report Human Rights Watch refrained from citing the names of many agencies and individuals who were interviewed because of their concerns that disclosure of their identity might expose them to adverse consequences from the Yemeni authorities.

III. Background

One war, five rounds

Yemen is a country of 22 million people occupying 528,000 square kilometers—about the size of France—in the southwestern corner of the Arabian Peninsula.¹ Yemen's per capita gross domestic product of US\$520 ranks it among the poorest countries in the world.² Almost all Yemenis are Muslims. The majority are Sunnis, following the Shafi'i school and mainly living in the center and south of the country and along the Red Sea coast. Most of the remainder are Zaidi Shi'a, mainly living in the northern highlands.³

Since early 2004, a group referred to in Yemen as “the Huthis” after the family name of the leader of the initial rebellion, have engaged in an armed conflict with the Yemeni military and government-backed tribal fighters in the country's northern-most governorate, Sa'da, that has been largely invisible to the outside world.⁴ The conflict has comprised five main rounds of armed conflict; the most recent officially ended by government announcement on July 17, 2008. Between these main periods of conflict, low-level fighting continued.⁵

¹ A December 2004 census reported a population of 19.7 million; the United States government estimated a population of 22.2 million as of July 2007. See “Country Profile: Yemen,” Library of Congress, Federal Research Division, August 2008, p.5 <http://lcweb2.loc.gov/frd/cs/profiles/Yemen.pdf> (accessed October 2, 2008).

² The GDP figure is from 2005. See World Bank, “Yemen” <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/YEMENEXTN/o,,menuPK:310170~pagePK:141159~piPK:141110~theSitePK:310165,00.html> (accessed October 2, 2008). Elsewhere the World Bank characterizes Yemen as “the single largest development challenge in the Middle East,” ranking 151st out of 177 countries on the UN's Human Development Index for 2005 <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/YEMENEXTN/o,,menuPK:310174~pagePK:141132~piPK:141107~theSitePK:310165,00.html> (accessed October 2, 2008).

³ The Federal Research Division at the US Library of Congress puts the breakdown at 70 percent Shafi'i (Sunni) and 30 percent Zaydi (Shi'a). See “Country Profile: Yemen,” Library of Congress, Federal Research Division, August 2008, p.6, <http://lcweb2.loc.gov/frd/cs/profiles/Yemen.pdf> (accessed October 2, 2008).

⁴ According to a 2004 census, Sa'da's population is about 700,000. See “Yemen: Government calls for international support to reconstruct war-torn areas,” IRIN, September 18, 2008, <http://www.reliefweb.int/rw/rwb.nsr/db90osid/PANA-7JLDRZ?OpenDocument&rc=3&cc=yem> (accessed September 24, 2008).

⁵ The five rounds of armed conflict, or five wars as they are known in Yemen, took place between the following dates which relate to official government declarations and ceasefires: (1) June 18, 2004 to September 10, 2004; (2) March 19, 2005 to April 12, 2005; (3) July 12, 2005 to February 28, 2006; (4) February 27, 2007 to June 14, 2007; (5) May 5, 2008 to July 17, 2008. July 17, 2008, the day that President Saleh declared an end to the fighting, was also the 30th anniversary of the day he seized power in 1978.

The Huthis

The movement led by the Huthis originated as “Believing Youth” (*al-shabab al-mu’mín*). Husain Badr al-Din al-Huthi founded the movement, which numbered between 1,000 and 3,000 in the mid-1990s, mainly to promote religious education in Sa’da governorate.⁶ The governorate is populated mainly by Zaidi Muslims, that is, people who follow the Zaidi branch of Shi'a Islam.⁷

Zaidi Muslims believe that leadership of the Muslim community should rest with direct descendants of the Prophet Muhammad—*sada* (singular *sayyid*).⁸ Zaidi doctrine holds that only certain sayyids—with characteristics such as courage, erudition, and piety—may be leaders (imams) of their community.⁹

Zaidi imams led the Yemeni “imamate” for over 1000 years, until Yemen’s military-led revolution deposed them in 1962. After the advent of multi-party elections in 1990, the Hizb al-Haqq (Party of Truth) represented the Zaidi, and often sayyid, interests in parliament. The party accepted the existence of the Yemeni republic and, contrary to claims made by the government after the 2004 conflict erupted, explicitly renounced the reintroduction of a Zaidi imamate in Yemen.¹⁰ Following the violent death of Husain al-Huthi in unclear circumstances in 2004, his brother Abd al-Malik al-Huthi assumed the leadership.

⁶ Sarah Phillips, “Cracks in the Yemeni System,” *Middle East Report Online*, July 28, 2005, <http://www.merip.org/mero/mer0072805.html> (accessed August 29, 2008).

⁷ The Zaidis split off from the main branch of Shi'a Islam in the ninth century when - after the death of the fourth Shi'a Imam - they refused to recognize his eldest son as the fifth Imam and instead recognized his youngest son, Zaid. They are therefore sometimes called “Fivers.” Zaidis are a majority in Sa’da Governorate. See Albert Hourani, *A History of the Arab Peoples* (Cambridge, MA: Harvard University Press, 1991), pp. 38-40 and 61-62. For a more detailed treatment of the Zaidis, see Gabriele vom Bruck, *Islam, Memory, and Morality in Yemen* (New York: Palgrave Macmillan, 2005).

⁸ Both Sunnis and Shi'a use the term Hashemite to refer to direct descendants of the Prophet Muhammad's grandfather. Sayyids are a sub-group of Hashemites although the terms are often used interchangeably. Not all branches of Islam agree on when the Prophets' family tree stopped expanding and who is therefore a direct descendant (a Hashemite).

⁹ Mohammed Al-Asadi, “From Religious Leaders to Ordinary Citizens, The Changing Role of ‘Sadah’ in Yemen,” *The Ambassadors*, January 2005, <http://ambassadors.net/archives/issue18/features3.htm> (accessed August 29, 2008)

¹⁰ Iris Glosemeyer, “Uprising in the Yemeni Highlands,” *Middle East Report* 232 (Fall 2004), <http://www.merip.org/mer/mer232/mer232.html> (accessed August 29, 2008). Between 1993 and 1997, before he became the Huthi's first leader, Husain al-Huthi was a member of parliament representing the Hizb al-Haqq. Technically eligible to be an imam, Yemeni officials accused him - once the war erupted - of wanting to reinstall and lead the Imamate.

By no means do all Zaidis support the Huthis, and many also do not follow traditional Zaidi doctrine. President Saleh himself is of Zaidi origin, and Zaidis from the powerful Hashid tribal coalition have often been well represented in senior political and military positions. In the view of some observers, the conflict is at least as much an expression of center-periphery tensions as it is of doctrinal or sectarian differences.¹¹

Tribes supporting the government

Tribal conflict is a regular occurrence in Yemen's northern governorates, and has complicated the conflict between the government and the Huthis.¹² Since armed conflict erupted in 2004, the government has recruited thousands of northern tribesmen.¹³ A government declaration in July 2008 that it intended to recruit a "popular army" of 27,000 tribesmen led to fears of protracted, small-scale conflict fuelled by revenge killings in the tribal settling of scores.¹⁴ The government all but abandoned the idea of a "popular army" within weeks of announcing it.

Causes of the conflict

The Huthis have never issued clear demands of the Yemeni government, although leading Huthi figures have referred to a range of possible explanations for their ongoing decision to take up arms.¹⁵ These include a wish to protect and promote the

¹¹ E-mail correspondence with Sheila Carapico, a scholar of Yemeni political developments at the University of Richmond. September 29, 2008.

¹² See "Yemen: Tribal Conflict Management Program Research Report," National Democratic Institute for International Affairs, March 2007. See <http://www.ndi.org/worldwide/mena/yemen/yemen.asp> (accessed August 30, 2008), and Paul Dresch, *Tribes, Government and History in Yemen* (Oxford: Oxford University Press, 1993). Dresch notes that the long-time leader of the Hashid tribe, Abdullah al-Ahmar, was known as the "Republican sheikh." For a good overview of tribes in Yemen's north, see also Paul Dresch, "Imams and Tribes: The Writing and Acting of History in Upper Egypt," in Philip S. Khoury and Joseph Kostiner, eds., *Tribes and State Formation in the Middle East* (Berkeley and Los Angeles: University of California Press, 1990), pp. 252-287.

¹³ "Yemen: The conflict in Saada Governorate – analysis", IRIN, July 24, 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-7GUDEL?OpenDocument&rc=3&cc=yem> (accessed August 30, 2008). The Hashid tribe played a key role in the 1962 military-led revolution against the Zaidi Imams and the fighting that followed to establish the republic. It also fought on President Saleh's side against the south before the country's unification in 1990 as well as during the 1994 civil war. Sarah Phillips, "Cracks in the Yemeni System," Middle East Report, July 28, 2005, <http://www.merip.org/mero/mero072805.html> (accessed August 29, 2008).

¹⁴ Mohammed Bin Sallam, "Saleh calls for recruiting tribesmen to fight Houthi's," Yemen Times, July 10, 2008, <http://www.yementimes.com/article.shtml?i=1171&p=front&a=1> (accessed August 29, 2008).

¹⁵ The leading English-language blog reflecting the Huthi's perspective is "Armies of Liberation" <http://armiesofliberation.com/>. See also Robert Worth, "A Living-Room Crusade via Blogging," The New York Times, May 20,

Zaidi religious identity, opposition to the government because of its cooperation with the United States, economic neglect of Sa’da governorate, and defending themselves against what they view as unjustified government military operations.¹⁶ The government has publicly characterized the Huthis as “terrorists.”¹⁷ However, international actors, including the United States, have not used this label.¹⁸ Human Rights Watch, in keeping with its policy of neutrality with respect to armed conflicts, takes no position regarding the Huthi or government decision to resort to arms.

In the 1980s, Yemenis returning from long periods of work in Saudi Arabia established hundreds of Saudi-backed, Sunni religious schools in the Zaidi Shi'a heartland that spread *salafi* doctrine, a literalist tendency that aims to restore the “original” beliefs and practices of the Prophet Muhammad and the generation of Muslims who followed him, and is close to the Wahhabi doctrine prevalent in Saudi Arabia.¹⁹ Many Zaidis viewed the spread of these schools as a Salafi and government attempt to weaken Zaidi social and political influence in Yemen.

In the early 1990s, the Believing Youth movement set up schools teaching Zaidi doctrine.²⁰ The government—which originally supported these schools—decided around 2000 that they represented a Zaidi revival that might threaten its power base

2008, <http://www.nytimes.com/2008/05/20/world/middleeast/2oblogger.html?pagewanted=print> (accessed September 8, 2008).

¹⁶ In June 2005, Abd al-Malik al-Huthi told *Al-Nida*, an independent weekly: “It was not [a position] against the state, or against the republican system, or against the president personally. It was self-defense, where government forces launched attacks on our houses in this locality.” Al-Huthi added that his group demanded freedom “in our religion and our religious ceremonies, and our mosques” as well as release of prisoners, reconstruction, and “a solution to the large problem of government forces in our houses and in our areas.” See “Abd al-Malik al-Huthi: Most mediators are only messengers, and their negotiations are futile,” *Al-Nida*, June 8, 2005 (copy on file with Human Rights Watch).

¹⁷ Nasser Arrabyee, “Interpol agrees to extradite al-Houthi, government says,” *Yemen Observer*, April 14, 2007, <http://www.yobserver.com/editorials/10012077.html> (accessed June 30, 2008). Many commentators interviewed by Human Rights Watch speculate that the war may in part have started as a result of the government’s desire to be seen as a proactive US-ally in its “war on terror.”

¹⁸ Human Rights Watch interview with United States Embassy, San'a, July 29, 2008. No actor, including the Yemeni government, believes the Huthis to be connected to Al-Qaeda.

¹⁹ On Saudi Arabia’s funding of these schools, see Gabriel vom Bruck, “Disputing descent-based authority in the idiom of religion: The case of the Republic of Yemen,” *Die Welt des Islams*, 1998, Vol. 38, p. 156; and Paul Dresch, *A History of Modern Yemen*, Cambridge UP 2000, p. 142. See also Shelagh Weir, “A Clash of Fundamentalism,” *Middle East Report* 204 (1997), <http://www.merip.org/mer/mer204/weir.htm> (accessed August 29, 2008). Wahhabism and salafism (from *salaf*, meaning “predecessor,” referring to the original companions of the Prophet) both conflict with more tolerant forms of Sunni belief, such as the Shafi'i legal school (practiced in Yemen), with Shia doctrine in general, and with Zaidi doctrine in particular.

²⁰ One commentator estimated that by 2000, San'a’s Great (Zaidi) Mosque controlled over 200 religious schools and study centers. Human Rights Watch interview with Muhammad ‘Aish of *Al-Shari’i* newspaper, San'a, July 23, 2008.

in northern tribal areas.²¹ The government started shutting down Zaidi schools, a process that is still ongoing.²² Many observers believe that this prompted the clashes between the military and the Believing Youth.²³

Another factor behind the government's clampdown on the Believing Youth movement was its adoption of anti-Western political positions. During the Gulf War in 1990-91, after the Yemeni government sided with Iraq in its invasion of Kuwait, Saudi Arabia deported over one million Yemeni workers, on whose remittances millions of Yemenis depended.²⁴ Gulf countries and the United States cut all aid to Yemen.²⁵ After 9/11, however, the government openly supported the United States, a position it maintained despite the US-led invasion of Iraq in March 2003 and despite the presence in Yemen of many Yemeni and other Arab veterans of the wars in Afghanistan. Western counter-terrorism analyses regularly refer to Yemen as effectively a rear base of Al-Qaeda in Yemen, making the country vulnerable to US military intervention.²⁶

In 2003, the Huthis raised the slogan “Allah is Great. Death to America. Death to Israel. Curse on the Jews. Victory to Islam” during demonstrations following Friday

²¹ The government's support likely stemmed from a desire to check the growth of salafism (and Saudi influence) in Yemen, represented in the Islah (Reform) Party, the largest opposition party to emerge after Yemen's transition to multi-party elections in 1990. According to journalist Muhammad 'Aish, the Believing Youth movement encouraged key tribal leaders and their communities to reconnect with their Zaidi - and not just their tribal - identity. With almost all senior leaders in President Saleh's inner circle stemming from Yemen's tribal areas, the government likely viewed the Zaidi message - with its reverence for a small number of chosen religious leaders stemming from a tight-knit family base, unrelated to tribal loyalty - as a threat to its fragile balancing act of controlling the tribes on which its power so depends. Human Rights Watch interview with Muhammad 'Aish of Al-Shari' newspaper, San'a, July 23, 2008.

²² Kent Davis-Packard, “Anti-terror measures incite sectarianism in Yemen,” *Christian Science Monitor*, August 29, 2008, <http://www.csmonitor.com/2008/0829/p04s01-wome.html> (accessed August 31, 2008).

²³ Human Rights Watch has recently reported on the government's 2008 wave of arrests of students from the few remaining Zaidi schools and of Zaidi Hashemite religious figures. Human Rights Watch, *Yemen – Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels*, ISBN 1-56432-392-7, October 2008.

²⁴ Yemen: Saleh Resilient Despite Threats,” *Yemen Online*, June 11, 2008, <http://www.yemenonline.info/news-746.html> (accessed August 30, 2008).

²⁵ Moneer Al-Omari, “Yemeni Illegal Immigration to Saudi Arabia on the Increase: Illegal Immigrant Tells his Story,” *Yemen Post*, May 5 2008, <http://www.yemenpost.net/28/reports/20081.htm> (accessed August 30, 2008).

²⁶ In November 2002, a US drone-fired missile killed Qaed Salim Sinan al-Harithi and five associates in a remote area of Yemen; Washington alleged that al-Harithi was a high-level Al-Qaeda official and had been involved in the October 2000 bombing of the USS Cole in Aden harbor. For recent counter-terrorist discussions of Al-Qaeda in Yemen, see Michael Scheuer, “Yemen's Role in al-Qaeda's Strategy,” *Global Terrorism Analysis* vol. 5, no. 5 (February 5, 2008), <http://jamestown.org/terrorism/news/article.php?articleid=2373951> (accessed September 23, 2008) and Gregory D. Johnsen, “Al Qaeda's Generational Split,” *Boston Globe*, November 9, 2007, http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2007/11/09/al_qaedas_generational_split/ (accessed September 23, 2008).

prayers at the Great Mosque in San'a as well as in mosques in Sa'da and Damar towns, although the Huthis have never targeted Westerners or Western interests in Yemen.²⁷ For the government, the demonstrations were almost certainly an embarrassment, given its public commitment to assist US counter-terrorism initiatives.

In May 2004, President Saleh offered to meet Husain al-Huthi but the meeting never took place. On June 18, 2004, the police arrested and temporarily detained 640 Huthi demonstrators in front of the capital's Great Mosque. On June 20, 2004, the governor of Sa'da traveled to Marran District but tribesmen, possibly affiliated to Husain al-Huthi, denied him access. The same day security forces in some 18 military vehicles attempted to arrest al-Huthi, escalating the fighting into full-blown war.²⁸

The war in northern Yemen: a non-international armed conflict

Under international law, the conflict since 2004 between the Yemen government and the Huthis in northern Yemen has been a non-international (internal) armed conflict in which all parties are bound by international humanitarian law (the laws of war). Yemeni armed forces and pro-government tribal fighters and Huthi forces are obligated to abide by article 3 common to the four Geneva Conventions of 1949,²⁹ the Second Additional Protocol of 1977 to the Geneva Conventions (Protocol II),³⁰ and relevant customary international law.³¹

²⁷ Nasr Salem, "Zaydi leaders offer government to end uprising in Yemen," Media Monitors Network, June 22, 2005, http://usa.mediamonitors.net/headlines/zaydi_leaders_offer_government_to_end_uprising_in_yemen (accessed September 14, 2008).

²⁸ J.E. Peterson, "The al-Huthi Conflict in Yemen," *Arabian Peninsula Background Note*, No. APBN-66, August 2008 http://www.jepeterson.net/sitebuildercontent/sitebuilderfiles/APBN-006_Yemen_al-Huthi_Conflict.pdf (accessed August 30, 2008).

²⁹ Article 3, Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), adopted August 12, 1949, 75 U.N.T.S. 287, entered into force October 21, 1950. Yemen ratified the 1949 Geneva Conventions on July 16, 1970. The Huthis, as well as government forces and pro-government tribal forces, are bound by common article 3: "in the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, *each Party to the conflict* shall be bound to apply, as a minimum, the following provisions..." (emphasis added). These include prohibitions "at any time and in any place whatsoever" with respect to civilians and captured combatants (a) murder, torture and other mistreatment; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences without trials meeting international due process standards.

³⁰ Protocol II applies to armed conflicts that "take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations." Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978, article 1. Yemen ratified Protocol II on April 17, 1990.

International humanitarian law forbids deliberately harming civilians and other persons no longer taking part in the hostilities, including wounded or captured combatants. It prohibits summary executions, torture and inhumane treatment, rape, looting and other offenses. Humanitarian law also provides rules on the conduct of hostilities to minimize unnecessary suffering. These include provisions relating to humanitarian access to provide relief to the civilian population. In the event that the current armed conflict has genuinely ended, humanitarian law would remain applicable to conflict-related issues.

The United Nations Guiding Principles on Internal Displacement (Guiding Principles) also specify the rights of internally displaced persons (IDPs).³² The principles are drawn from legally binding provisions set out in international human rights law, including the International Covenant on Civil and Political Rights³³ and the International Covenant on Economic, Social and Cultural Rights,³⁴ to which Yemen is party, as well as from international humanitarian law.³⁵ These principles still apply whether or not the situation in Yemen remains that of an armed conflict.

Protocol II would appear to apply to the current conflict. The Huthis have operated under a responsible command, have controlled entire towns and significant parts of districts in Sa'da governorate, and carried out sustained and concerted military operations. Even if not formally applicable, most provisions of Protocol II are considered reflective of customary international law.

³¹ Customary international humanitarian law can be found in the International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge, UK: Cambridge University Press, 2005). Not available online.

³² UN Guiding Principles on Internal Displacement (Guiding Principles), adopted by the UN General Assembly September 1998, <http://www.unhchr.ch/html/menu2/7/b/principles.htm> (accessed August 31, 2008). Internally displaced persons are “persons who have been forced or obliged to flee or to leave their home or their place of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” *Ibid.*, Introduction, paragraph 2.

³³ International Covenant on Civil and Political Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, <http://www2.ohchr.org/english/law/ccpr.htm> (accessed August 31, 2008), acceded to by Yemen on February 9, 1987.

³⁴ International Covenant on Economic, Social and Cultural Rights (IESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, <http://www2.ohchr.org/english/law/ESCR.htm> (accessed August 31, 2008), acceded to by Yemen on February 9, 1987.

³⁵ Guiding Principle, Article 3.

IV. The Information Blackout

With the beginning of the fourth round of fighting in February 2007, the Yemeni government imposed an information blackout on Sa'da governorate that remained in effect into October 2008 for most journalists, leading to a lack of information on the needs of war-affected civilians.³⁶ The authorities banned both local and foreign journalists from traveling anywhere in Sa'da governorate and cut off most subscribers from the mobile phone network covering that area; only a few government-vetted individuals were allowed to access the network.³⁷ Between the fourth and fifth rounds of violence (June 2007 to May 2008), the government prohibited aid agencies from traveling outside a limited number of towns. During the fifth war (early May to mid-July 2008), the government imposed an almost total prohibition on their movement throughout Sa'da governorate (see below).

The government has threatened journalists covering the conflict and arbitrarily arrested internet webmasters and others with information on civilian casualties.³⁸ Leading Yemeni journalists told Human Rights Watch that although they could use secondary sources to report in a general way on the war, redlines included criticism of President Saleh, reference to military loses, and anything that could be construed as “undermining Yemen’s unity.”³⁹ Foreign Minister Abu Bakr al-Qurbi, speaking about the prosecution of journalist Abd al-Karim al-Khaiwani, told Human Rights Watch that the government’s restrictions on journalists were an attempt to “differentiate between freedom of expression and journalistic crimes.”⁴⁰

³⁶ Human Rights Watch telephone interview with international journalist based in San'a, October 21, 2008. Some Yemeni journalists “did byline reports from Sa'da in September and October 2008. See, for instance, Mohammed Bin Sallam, “Humanitarian situation continues to worsen,” *Yemen Times*, September 21, 2008 <http://www.reliefweb.int/rw/rwb.nsf/db9oosid/ASAZ-7JQFEY?OpenDocument&rc=3&cc=yem> (accessed October 21, 2008). .

³⁷ Human Rights Watch interviews, San'a, July 2008.

³⁸ Human Rights Watch, *Yemen: Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels*, ISBN 1-56432-392-7, October 2008.

³⁹ Human Rights Watch interviews, San'a, July 2008.

⁴⁰ Human Rights Watch interview with Abu Bakr al-Qurbi, July 23, 2008. The government prosecuted al-Khaiwani, editor of the opposition website Al-Shura, as a supporter of the Huthi rebels. According to the Committee to Protect Journalists, the evidence included photographs of fighting in Sa'da, an interview with a rebel leader, and an article critical of President Saleh; a court convicted him and sentenced him to six years in prison. See Committee to Protect Journalists, “Yemeni editor given

The government does not publish information about civilian casualties, humanitarian needs, or war damage to civilian property. In private, officials have accused the Huthis of committing atrocities such as summary executions.⁴¹ The government's information blackout and restrictions on movement throughout Sa'da governorate has prevented independent and reliable reporting on the impact of the fighting on civilians. Some of those persons the government arrested were said to be carrying photographs of civilian deaths and destroyed property.⁴²

Usually citing anonymous sources, the Yemeni press has reported that the government used fighter jets, helicopters, tanks and artillery to attack Huthi positions in mostly rural areas but also in heavily populated towns, most recently in Bani Hushaish, Dhahyan, Haidan, and Harf Sufyan.⁴³ Some media reported that the Huthis used heavy artillery and anti-aircraft guns.⁴⁴ Several people, including staff from international non-governmental organizations (NGOs), told Human Rights Watch that both sides have used landmines.⁴⁵

The Huthis have been keen to provide journalists with information about the civilian impact, often claiming high numbers of civilian casualties in specific incidents, which some websites and newspapers have reported.⁴⁶ Arab media have cited anonymous sources when referring to Huthi military tactics and to government aerial bombardment of Huthi positions and areas still inhabited by civilians, referring to

six-year term," June 9, 2008. On September 25, 2008, President Saleh ordered him released from prison. See Committee to Protect Journalists, "In Yemen, outspoken editor pardoned and released," e-mail from CPJ received September 25, 2008.

⁴¹ Human Rights Watch interview with Huda Alban, Minister of Human Rights, San'a, July 28, 2008.

⁴² Human Rights Watch interview with Yemeni journalist, San'a, July 23, 2008.

⁴³ Mohammed Bin Sallam, "Clashes renew as Houthi's lockdown of troops ends," *Yemen Times*, July 16, 2008, <http://yementimes.com/article.shtml?i=1173&p=front&a=2> (accessed August 31, 2008). Mohammed Bin Sallam, "Hundreds killed in military operations against Houthi's," *Yemen Times*, July 6, 2008, <http://yementimes.com/article.shtml?i=1170&p=front&a=2> (accessed August 30, 2008).

⁴⁴ Muneer al-Mawiri, "Saudi-Iranian Conflict in Yemen," *Yemen Times*, June 30, 2008, <http://yementimes.com/article.shtml?i=1168&p=opinion&a=2> (accessed September 14, 2008).

⁴⁵ Human Rights Watch interviews, San'a, July 2008. See also "Yemen: Government accused of planting landmines," IRIN, <http://www.irinnews.org/Report.aspx?ReportId=71562> (accessed August 30, 2008); and Mohammed Bin Sallam, "Despite increasing efforts to restore Sa'da anti-personnel mines kill hundreds of goat herders," *Yemen Times*, August 31, 2008, <http://yementimes.com/article.shtml?i=1186&p=front&a=1> (accessed September 8, 2008).

⁴⁶ See, for example, Mohammed Al-Qadhi, "Deaths mount as fighting escalates in Sa'ada," *Yemen Times*, April 4-6, 2005, [http://74.125.93.104/translate_c?hl=en&sl=pt&u=http://yementimes.com/article.shtml%3Fi%3D830%26p%3Dfront%26a%3D1&prev=/search%3Fq%3D%2522Deaths%2Bmount%2Bas%2Bfighting%2Bescalates%2bin%2BSa%2527ada%2522%26hl%3Den%26sa%3DG&usg=ALkjrhj9DW4jfExTMEle4jgls1bdbXN6sQ](http://74.125.93.104/translate_c?hl=en&sl=pt&u=http://yementimes.com/article.shtml%3Fi%3D830%26p%3Dfront%26a%3D1&prev=/search%3Fq%3D%2522Deaths%2Bmount%2Bas%2Bfighting%2Bescalates%2Bin%2BSa%2527ada%2522%26hl%3Den%26sa%3DG&usg=ALkjrhj9DW4jfExTMEle4jgls1bdbXN6sQ) (accessed October 2, 2008).

individual incidents in which dozens of civilians have been killed.⁴⁷ If accurate, these reports suggest that four years of war have killed hundreds—if not thousands—of civilians, as well as Houthi fighters and government military personnel.

⁴⁷ Except for a few sporadic articles in 2008 in the US press, the non-Arab press has all but ignored the conflict.

V. Fighting and Civilian Losses in Mid-2008

A fundamental principle of international humanitarian law is the distinction between civilians and combatants. Prohibited are attacks that target civilians or that are indiscriminate in that they do not distinguish between civilians and military objectives.⁴⁸ Civilian objects, such as homes, houses of worship, and schools are also protected from attack unless they are being used for military purposes.⁴⁹ Pillage is prohibited.⁵⁰ Individuals who knowingly or recklessly commit serious violations of humanitarian law are responsible for war crimes. A state has an obligation under international law to investigate alleged war crimes by its forces or committed on its territory, and to prosecute those responsible.⁵¹

In mid-2008 Human Rights Watch heard numerous accounts of recent fighting, including allegations of government bombing attacks on populated villages and other serious laws of war violations.

Because of the government information blackout, Human Rights Watch was unable to verify these accounts. Displaced persons who witnessed the fighting in different locations gave Human Rights Watch some information regarding specific incidents. Most were reluctant to comment on possible Huthi abuses or criticize the armed group in any way.

One internally displaced person told Human Rights Watch:

Because of the aerial bombardment in the fifth war, about one quarter of Dhahyan town is now destroyed. My family lived in seven houses there, all of which are now destroyed. I have been told by relatives who went back that all public buildings have now been destroyed in

⁴⁸ See ICRC, *Customary International Humanitarian Law*, citing Protocol II, article 13(2).

⁴⁹ See ICRC, *Customary International Humanitarian Law*, citing Protocol II, article 13(1).

⁵⁰ See ICRC, *Customary International Humanitarian Law*, p. 591.

⁵¹ See ICRC, *Customary International Humanitarian Law*, pp. 568-69, 608-610.

Dhahyan. In the last war, in early 2007, the army gave us three days to vacate the town, but this time there was no warning. The shooting and the bombing just started.⁵²

Another displaced person now living in San'a said:

The fighting in Dhahyan began on May 11, 2008. I spoke to my brother who fled the town that day. He told me that 10 people who had fled a different place and sought refuge in Dhahyan were killed by aerial bombardment that hit the house they were staying in.⁵³

Human Rights Watch spoke with two women from the same displaced family, living in two villages close to each other. According to one:

We were living in two villages near Bani Hushaish district. At the end of May 2008 the government used planes, helicopters and tanks to attack the town. They destroyed our houses and shops. Many people were killed. A five-year-old boy was killed while running away from missiles. An 18-year-old-woman who took care of one of our children was also killed when our house was hit, and two neighbors of ours were shot in front of the mosque by soldiers.

The other woman said:

In the last week of May 2008, government fighter planes and helicopters bombed the nearby mountain for seven hours, so we fled our village, Bait al-Aghrabi, and came to San'a. We went back two weeks later and we found our house totally destroyed. Some villagers had stayed after we left and were killed when the government bombed the village. We then went to the village of al-Shari' to stay with family there. After three weeks there the government attacked the village with

⁵² Human Rights Watch interview, San'a, July 20, 2008.

⁵³ Human Rights Watch interview, San'a, July 28, 2008.

tanks. We were inside our house. The tanks destroyed the top three floors and we hid for one day and night on the ground floor. It was not safe so we fled again the next day and came back to San'a.⁵⁴

Government aerial bombardment reportedly destroyed many parts Harf Sufyan district, in 'Amran governorate, 150 kilometers northwest of the capital on the road to Sa'da.⁵⁵ A local journalist who had been to the region told Human Rights Watch that the villages of 'Ayan, Mijzan, Saifan, and Wajba were completely destroyed and that the nearby village of Haira was bombed for three consecutive days.⁵⁶

An international NGO conducted focus group discussions in IDP camps in Sa'da town in early August 2008 and found that some IDPs had returned to their home areas during the last week of July 2008, only to find their properties completely destroyed, leaving them with no option but to return to the camps.⁵⁷ A community leader from Harf Sufyan confirmed that 1,800 families could not return to their villages because fighting had completely destroyed their houses.⁵⁸ In October, some persons remained in camps because their homes were destroyed, despite government pressure for them to return.⁵⁹

In late July 2008, the government created a Sa'da High Committee for War Damages Assessments to assess war damage to public and private property. During the first week of August 2008, the committee faced difficulties in accessing affected areas after pro-government tribes stopped its convoy and insisted they, and not "pro-

⁵⁴ Human Rights Watch interview, San'a, July 24, 2008.

⁵⁵ "Yemen: Aid pledge for war-affected families in north," *IRIN*, September 4, 2008, <http://www.irinnews.org/Report.aspx?ReportId=80165> (accessed September 8, 2008); "Yemen: Spotlight on IDPs in Amran Governorate," *IRIN*, August 18, 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-7HMDRV?OpenDocument&rc=3&cc=yem> (accessed August 19, 2008)

⁵⁶ Human Rights Watch interview, local journalist, San'a, July 20, 2008.

⁵⁷ Maryam Al-Yemeni and Nadia Al-Sakkaf, "Relative optimism as humanitarian aid slowly finds its way to Sa'da," *Yemen Times*, July 31, 2008, <http://yementimes.com/article.shtml?i=1177&p=front&a=2> (accessed August 11, 2008). See also "Yemen: thousands of IDPs unable to return home," *IRIN*, July 28, 2008, <http://www.alertnet.org/thenews/newsdesk/IRIN/6b7fc1c850044ed883fb9453fde9ba4.htm> (accessed August 11, 2008).

⁵⁸ Hasan al-Zaidi, "As Government Looks into Damages Report; Zaidi Scholars Call for Releasing Detainees over Sa'da Events," *Yemen Post*, August 18, 2008, <http://www.yemenpost.net/43/LocalNews/20083.htm> (accessed August 27, 2008).

⁵⁹ Human Rights Watch telephone interview, international humanitarian agency, San'a, October 21, 2008.

Huthi villages,” should receive priority assistance to repair damaged property in exchange for having fought the Huthis.⁶⁰

In mid-August 2008, in a statement that highlights the politicization of government development assistance in Yemen, the head of the High Committee, Minister of Local Administration Abd al-Qadir Ali Hilal, said that al-Zhahir district, on the border with Saudi Arabia, would receive priority for reconstruction and would benefit from the provision of electricity, water and paved roads, in recognition of the community’s support for the Yemeni army during its fight against Huthi rebels.⁶¹

Several displaced persons also alleged that government soldiers looted civilian property. A young woman displaced from Bani Hushaish said:

When we went back to our village we saw soldiers looking through our house and other houses. They stole our property in front of our eyes. They also blew up some of the houses that had not been completely destroyed already. When we talked to the soldiers they said to us: “If we see any man from your family we will kill him.”⁶²

A journalist told Human Rights Watch that he had spoken to soldiers from Yemen’s 21st Armored Division, who boasted about the property they had looted from civilian houses during the 2006, 2007 and 2008 fighting.⁶³

In other instances people described their property having been looted but could not ascertain who was responsible. A man from Harf Sufyan town told Human Rights Watch that some of his relatives had returned to the town after the fighting ended to

⁶⁰ “Yemen: conflict damage assessment committee runs into trouble,” IRIN, August 7, 2008, <http://www.irinnews.org/PrintReport.aspx?ReportId=79688> (accessed August 25, 2008). “Tribesmen protest as Sa’da reconstruction committee fails to make progress on the ground,” *Yemen Times*, August 3, 2008, <http://yementimes.com/article.shtml?i=1178&p=local&a=3> (accessed August 23, 2008).

⁶¹ Muhammad Bin Sallam, “Sa’da security situation relatively calm,” *Yemen Times*, August 17, 2008, <http://yementimes.com/article.shtml?i=1182&p=front&a=2> (accessed August 28, 2008).

⁶² Human Rights Watch interview, San'a, July 24, 2008.

⁶³ Human Rights Watch interview, San'a, July 19, 2008.

find that their homes had been looted.⁶⁴ Another journalist told Human Rights Watch that his family had fled Harf Sufyan town in the second week of May 2008. When they returned after the fighting had died down, they found all of the village's remaining houses had been looted, including furniture, electronic goods and jewelry.⁶⁵

Possible Huthi involvement in looting cannot be dismissed. Two persons separately told Human Rights Watch that in 2004 and 2005, when Huthi fighters moved into a village they would assess the stock of local traders and fix a price for their wares, paying half in advance and the remainder after a battle. One person from a town where fighting had taken place in May 2008 said that the Huthis did not compensate locals. Many interviewees were reluctant to criticize the Huthis, and one person said that locals "willingly" gave supplies to the Huthis.⁶⁶

⁶⁴ Human Rights Watch telephone interview, July 20, 2008.

⁶⁵ Human Rights Watch interview, San'a, July 20, 2008.

⁶⁶ Human Rights Watch telephone interview with a person sheltering in the open after fleeing Harf Sufyan, 'Amran governorate, July 21, 2008.

VI. Displacement During 2008

Displacement during the fifth round of fighting (May 10 to July 17, 2008)

Displacement into Sa’da town

By July 17, 2008, an estimated 17,000 to 20,000 IDPs (of whom about 80 percent were women and children) were living in seven camps managed by the Yemeni Red Crescent.⁶⁷ The camps are located in and around Sa’da town, the capital of Sa’da governorate.⁶⁸ An estimated 40,000 IDPs were also living with relatives or friends in Sa’da town.⁶⁹

Displacement outside Sa’da town

Humanitarian access to rural areas in Sa’da governorate was almost non-existent in the first half of 2008, and remained limited after July 17, when President Saleh declared an end to the fighting. There are only estimates of the total number of IDPs in Sa’da’s rural areas. Humanitarian NGOs estimated that by June 30 the conflict had displaced 14,700 people to rural areas throughout the governorate and 15,200 to neighboring ‘Amran and al-Jawf governorates.⁷⁰

In June 2008, the UN estimated that the conflict had displaced a total of 130,000 persons throughout the country, including the 60,000 known to be in Sa’da town.⁷¹ This suggested that up to 70,000 IDPs had been displaced in rural areas or urban areas other than Sa’da town. An estimate by the International Committee of the Red Cross (ICRC) in May 2008 that 100,000 civilians were “directly affected” by the war,

⁶⁷ Human Rights Watch interview with UNICEF, San’ā, July 23, 2008.

⁶⁸ The first camps were opened during the fourth round of fighting in 2007. Human Rights Watch interview with Islamic Relief, San’ā, July 15, 2008.

⁶⁹ Human Rights Watch interview with Islamic Relief, San’ā, July 15, 2008.

⁷⁰ “Humanitarian situation in Saa’da Governorate – Yemen; Challenges and Opportunities,” July 7, 2008, unpublished document of humanitarian NGOs. On file with Human Rights Watch.

⁷¹ “Humanitarian Update,” UN Office for the Coordination of Humanitarian Affairs (OCHA), June 2008, <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/romenaca> (accessed August 31, 2008).

of whom 40,000 were estimated at the time to be in Sa’da town, supports this figure.⁷²

Persons displaced in the first half of 2008 and who were unable to reach Sa’da town tried to find shelter with relatives or friends. For example, during the fifth round of fighting, around 500 newly displaced who could not reach Sa’da town were living with relatives in Bakil Amir on the Saudi border.⁷³ Other IDPs, unable to find help, became refugees by crossing the border into Saudi Arabia.⁷⁴

In Sa’da town, residents reported that 60 or more persons lived in houses that before the displacement had 20 family members.⁷⁵ Many IDPs only found shelter in mosques, schools, tents, caves, or on farmland under open skies. One displaced person told Human Rights Watch that he had seen other IDPs living in caves in a number of areas including in Rughafa, Dhahiyan, Sanam and al-‘Aridh.⁷⁶

A displaced person from Harf Sufyan told Human Rights Watch that in May 2008 he and 3,000 other inhabitants had fled the town after the community leaders warned them that the military would carry out aerial bombardment. They ended up living without any shelter on nearby mountains.⁷⁷ An international NGO confirmed that in May and June, some 2,000 IDPs from Harf Sufyan fled to neighboring al-Jawf governorate to the east.⁷⁸

⁷² “Yemen: 100,000 people affected by rebellion in the north – ICRC,” IRIN, May 11, 2008, <http://www.irinnews.org/report.aspx?ReportId=78139> (accessed August 31, 2008).

⁷³ Human Rights Watch interview with Yemeni Red Crescent, San'a, July 29, 2008.

⁷⁴ Human Rights Watch interview, San'a, July 22, 2008. A refugee is a person crossing an international border to escape persecution. See the UN Convention relating to the Status of Refugees (1951 Refugee Convention), 189 U.N.T.S. 150, entered into force April 22, 1954, and its 1967 Protocol Relating to the Status of Refugees, 606 U.N.T.S. 267, entered into force October 4, 1967, http://www.unhchr.ch/html/menu3/b/o_c_ref.htm.

⁷⁵ Human Rights Watch telephone interview with a man in Sa’da town, July 21, 2008.

⁷⁶ Human Rights Watch interview, San'a, July 2008.

⁷⁷ Human Rights Watch telephone interview, San'a, July 20, 2008.

⁷⁸ Human Rights Watch interview, San'a, July 2008.

Ongoing displacement

Two weeks after the official end of fighting, on August 5, 2008, the Yemeni Red Crescent reported that 9,000 people remained in Sa'da town's seven camps, down from as many as 20,000.⁷⁹ Of the up to 40,000 IDPs living in Sa'da town with relatives, the ICRC in June estimated that 15,500 IDPs lacked access to clean water and medical care; the local government disputed this number, saying that most of the displaced families had returned home.⁸⁰ Other organizations found that a number of IDPs had returned to their villages during the last week of July 2008 only to find their properties completely destroyed, leaving them with no option but to return to the camps.⁸¹

In mid-August 2008, international aid agency staff told Human Rights Watch that IDPs who left Sa'da town for home returned after some Huthis told them they were not welcome because they had fled during the fighting, indicating that they opposed the Huthis.⁸² According to information given to Human Rights Watch by a person who had recently visited Malahit, many IDPs who left Malahit town in late July to go home then returned to Malahit after Huthis in control of their home villages told them they would only be allowed to stay if they signed a statement that they would support the Huthis and not the government if another war broke out.⁸³

Also in mid-August, the Yemeni Red Crescent reported that 1,100 families who had escaped intense fighting in Harf Sufyan district in 'Amran governorate in May 2008, and in Sa'da governorate between May and July 2008, were living in various districts of 'Amran governorate in abandoned houses, schools, and mosques, and were in

⁷⁹ Yemeni Red Crescent internal statistics, on file with Human Rights Watch.

⁸⁰ The ICRC said that "due to the security situation" it "could not verify these figures independently." See ICRC "Operational Update 8-08-2008" at <http://www.icrc.org/web/eng/siteengo.nsf/html/yemen-update-080808?opendocument>. See also "Government denies authenticity of ICRC's scores war aftermath," *Yemen Times*, August 10, 2008, <http://yementimes.com/article.shtml?i=1180&p=front&a=2> (accessed August 18, 2008).

⁸¹ Maryam Al-Yemeni and Nadia Al-Sakkaf, "Relative optimism as humanitarian aid slowly finds its way to Sa'da," *Yemen Times*, July 31, 2008, <http://yementimes.com/article.shtml?i=1177&p=front&a=2> (accessed August 11, 2008). See also "Yemen: thousands of IDPs unable to return home," *IRIN*, July 28, 2008, <http://www.alertnet.org/thenews/newsdesk/IRIN/6b7fc1c850044ed883fb9453fde9ba4.htm> (accessed August 11, 2008).

⁸² Human Rights Watch telephone interview with international agency staffer, August 15, 2008.

⁸³ Human Rights Watch email exchange, August 20, 2008.

serious need of humanitarian assistance.⁸⁴ As noted above, a community leader from Harf Sufyan confirmed in mid-August that 1,800 families could not return to their villages because fighting had completely destroyed their houses.⁸⁵ According to a humanitarian agency staffer, some residents who had gone back to their homes in response to government encouragement subsequently returned to the IDP camps “because their houses were destroyed or because they were forced to make pledges to the Huthis.”⁸⁶

⁸⁴ “Yemen: Spotlight on IDPs in Amran Governorate,” *RIN*, August 18, 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-7HMDRV?OpenDocument&rc=3&cc=yem> (accessed August 19, 2008)

⁸⁵ Hasan Al-Zaidi , “As Government Looks into Damages Report; Zaidi Scholars Call for Releasing Detainees over Sa’da Events,” *Yemen Post*, August 18, 2008, <http://www.yemenpost.net/43/LocalNews/20083.htm> (accessed August 27, 2008).

⁸⁶ Human Rights Watch telephone interview, San'a, October 21, 2008.

VII. Lack of Humanitarian Access

Since the armed conflict began in 2004, humanitarian agencies working in Sa'da governorate have faced a wide range of challenges in gaining access to the displaced and other civilians in need of assistance. Precisely because the government has effectively prevented humanitarian agencies, journalists, and others from accessing most parts of the governorate, there is little evidence that on any given date the authorities' refusal to allow access was arbitrary, in contravention of international law.

Those restrictions have also prevented humanitarian agencies from determining the full extent of the conflict's impact on civilians, and their needs in the aftermath. The restrictions on access documented in this report show that the government broadly and systematically—and without transparent and persuasive reasons—prevented impartial national and international humanitarian agencies from reaching civilians to assess their needs and respond with assistance. What is clear is that the need is great, and that assistance has not reached rural areas, where many displaced persons remain camped, sometimes in the wild, and where government restrictions still prevent humanitarian agencies from providing assistance.

One foreign diplomat in San'a told Human Rights Watch that an official from the Deputy Minister of Planning's office told diplomats that the Yemeni government did not want foreign nationals seeing what was happening in Sa'da governorate.⁸⁷ During the fifth round of fighting the authorities granted a national humanitarian agency close to the government access to areas that they refused to give to international agencies, indicating that security was less of a reason than official discomfort with international staff witnessing what was taking place inside the war zone.⁸⁸ Because the need is considerably greater than what the national agencies can provide, the government's refusal to allow international humanitarian agencies

⁸⁷ Human Rights Watch interview, July 21, 2008.

⁸⁸ Human Rights Watch interview, July 20, 2008. Human Rights Watch confirmed with the national agency that it had access to the area in question. Human Rights Watch interview, San'a, July 2008.

access appears to violate its obligation to ensure that the population gets the assistance it needs to ensure survival.

Humanitarian law relating to access

International humanitarian law provides that a civilian population suffering hardship is entitled to receive humanitarian relief essential to its survival.⁸⁹ Parties to a conflict must facilitate impartial relief. While parties can take measures to control the content and delivery of humanitarian aid, they cannot deliberately impede delivery, and under no circumstances may a party arbitrarily refuse aid agencies access to affected populations.⁹⁰

Article 18(2) of Protocol II states:

If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.⁹¹

According the ICRC's authoritative commentary to Protocol II, the consent requirement does not mean that the decision is left to the parties' discretion:

If the survival of the population is threatened and a humanitarian organization fulfilling the required conditions of impartiality and non-discrimination is able to remedy this situation, relief actions must take place... The authorities responsible for safeguarding the population in

⁸⁹ See ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, (Y. Sandoz et al., eds., 1987) [hereinafter ICRC, *Commentary on Additional Protocols*], p. 1478.

⁹⁰ See ICRC, *Customary International Humanitarian Law*, rules 55 and 56.

⁹¹ Protocol II, article 18(2).

the whole of the territory of the State cannot refuse such relief without good grounds.⁹²

Likewise, customary international humanitarian law provides that parties must ensure the freedom of movement of authorized humanitarian relief agencies, and that only in case of “imperative military necessity” may their movements be temporarily restricted.⁹³ A party to the conflict can claim “imperative military necessity” if it believes that relief operations will “interfere with military operations” and such an exception can only be “limited and temporary.”⁹⁴

International humanitarian law provides special protection for humanitarian relief workers, which considers their safety and security an indispensable condition for the delivery of humanitarian aid.⁹⁵ In numerous conflicts, the UN Security Council has urged all parties to internal armed conflicts to respect and protect humanitarian workers.⁹⁶ Like civilians, humanitarian aid workers are entitled to protection from direct or indiscriminate attack.⁹⁷ Parties may not harass, intimidate or arbitrarily detain them.⁹⁸ Objects used in humanitarian relief operations, such as food, medicines, and vehicles are civilian objects and must be respected and protected.⁹⁹ Destruction, theft and looting of such objects is prohibited.¹⁰⁰ The UN Guiding Principles in Internal Displacement also prohibit all interference with humanitarian aid agencies and their work.¹⁰¹

⁹² ICRC, *Commentary on Additional Protocols*, p. 1479.

⁹³ ICRC, *Customary International Humanitarian Law*, rule 56. pp. 200 – 202.

⁹⁴ *Ibid.* p. 202.

⁹⁵ ICRC, *Customary International Humanitarian Law*, rule 55, p. 198, citing Protocol I, article 70(3).

⁹⁶ ICRC, *Customary International Humanitarian Law*, rule 31, p. 107 citing UN Security Council Resolutions.

⁹⁷ Common Article 3, Fourth Geneva Convention.

⁹⁸ ICRC, *Customary International Humanitarian Law*, rule 31, p. 108, citing various UN Security Council resolutions and state practice.

⁹⁹ ICRC, *Customary International Humanitarian Law*, rule 31, p. 109, citing article 8(2)(e)(iii) of the Statute of the International Criminal Court which prohibits “intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance mission ...”.

¹⁰⁰ ICRC, *Customary International Humanitarian Law*, rule 32, p. 111, citing UN Security Council resolutions and state practice.

¹⁰¹ Principle 24(2) states that “humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons. Principle 26 states that “persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.”

Guiding Principles on Internal Displacement relating to access

Internally displaced persons are protected under international law both during periods of armed conflict and in peacetime. The UN Guiding Principles on Internal Displacement set out the rights of IDPs to receive humanitarian assistance that protects their basic social and economic needs, such as access to food and water, health care and shelter. Displaced civilians in Yemen are entitled to the protection of all their rights while they are displaced, and must not face discrimination because of their displacement.¹⁰²

The Yemeni government has the “primary duty and responsibility to provide protection and humanitarian assistance to IDPs” and IDPs have the “right to request and receive protection and humanitarian assistance” from the Yemeni authorities.¹⁰³ If the Yemeni authorities do not provide assistance, then aid agencies:

Have the right to offer their services in support of IDPs [which] ... shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance... All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to IDPs.¹⁰⁴

Regarding the type of assistance to which all IDPs are entitled, the Guiding Principles make clear that “at a minimum, regardless of the circumstances” they shall receive help to “ensure safe access to ... (a) essential food and potable water; (b) basic shelter and housing; (c) appropriate clothing; and (d) essential medical services and sanitation.”¹⁰⁵

¹⁰² Guiding Principle 1(1).

¹⁰³ Guiding Principle 3.

¹⁰⁴ Guiding Principle 25.

¹⁰⁵ Guiding Principle 18(2).

The Guiding Principles also set out the rights of special groups, such as “children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons” to receive assistance “required by their condition and to treatment which takes into account their special needs.”¹⁰⁶

Regarding health care, “all wounded and sick IDPs as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require” including “access to psychological and social services.” Furthermore, “special attention should be paid to the health needs of women, including access to female health care providers and services ... as well as appropriate counseling for victims of sexual and other abuses.”¹⁰⁷

Lack of humanitarian access between the fourth and fifth rounds of fighting (June 18, 2007 to May 10, 2008)

Even during extended lulls in the fighting, such as the nearly one-year interval between the fourth and fifth rounds, national and international humanitarian aid agencies found it impossible to access most parts of Sa’da governorate.

At the end of July 2007, over a month after the official end of the fourth round of violence, the government still prohibited national aid agencies from reaching civilians affected by the conflict.¹⁰⁸ In subsequent months some agencies were able to reach a very limited number of rural areas, and only on a sporadic basis.¹⁰⁹ One year later, a month after the end of the fifth round of fighting in July 2008, aid agencies faced similar constraints (see below).

Most international aid agencies first began working in Sa’da after the end of the fourth round of fighting, which officially ended on June 18, 2007. Since that time, agencies have mostly been limited to working in Sa’da town or, in limited cases, to a

¹⁰⁶ Guiding Principle 4(2).

¹⁰⁷ Guiding Principle 19.

¹⁰⁸ “Yemen: Humanitarian situation in Saada remains poor despite peace agreement,” IRIN, July 31, 2007, <http://www.alertnet.org/thenews/newsdesk/IRIN/43ffd104b063694a2635061fbac125a9.htm> (accessed August 30, 2008).

¹⁰⁹ Human Rights Watch interview, San'a, July 2008.

few smaller towns, requiring IDPs and other vulnerable populations to risk crossing military, Huthi, and tribal checkpoints to reach aid.

Between the fourth and fifth round of fighting, the government broadly and systematically denied all international aid agencies access to Sa’da governorate’s rural areas, citing general security concerns. In early 2008, the government denied agencies permission to undertake assessment missions in areas believed to contain large numbers of civilians in need, citing landmines as well as ongoing clashes between the Huthis and security forces, and between the Huthis and pro-government tribes.¹¹⁰

On a few exceptional occasions, the government granted permission for assessment missions. However, due to government restrictions on access to the mobile phone network in Sa’da governorate beginning in 2007, agencies were unable to reach Huthi contacts to obtain security guarantees and so could not travel.¹¹¹

Between June 2007 and May 2008, the UN World Food Program’s (WFP) partner agencies distributed food to tens of thousands of IDPs living in camps in Sa’da town and with host families of the town, and to approximately 10,000 people who regularly came to Sa’da town from rural areas to collect their rations.¹¹² However, an unknown number of civilians who were unable to reach Sa’da town—probably numbering in the tens of thousands—received no help. Insecurity, coupled with the UN’s concern that Yemenis throughout the country view the UN as a pro-Western or pro-American agency and not a neutral humanitarian or developmental force, led the UN not to travel to Sa’da’s rural areas.¹¹³ The WFP carried out a food security assessment outside of Sa’da town in October 2007, and as of October 2008 had not yet completed a new assessment.¹¹⁴

¹¹⁰ Human Rights Watch interview with humanitarian agency, San’ā, July 2008.

¹¹¹ Human Rights Watch interview with humanitarian agency, San’ā, July 2008.

¹¹² Human Rights Watch interview with WFP staffer, San’ā, July 21, 2008.

¹¹³ Both UN and non-UN humanitarian staff told Human Rights Watch that all UN agencies in Yemen have serious security concerns stemming from this assessment. Because the UN Department of Safety and Security (UNDSS) declared the whole of Yemen to be covered by security level 3, UN agencies responding to the war have only travelled to Sa’da and Malahit towns, and only with armed government escorts.

¹¹⁴ Human Rights Watch interview with WFP, San’ā, July 21, 2008, and by telephone, San’ā, October 22, 2008.

In the nine months prior to the outbreak of renewed fighting in May 2008, humanitarian agencies were able to carry out medical work in a number of small towns in Sa’da governorate, though the Ministry of Interior required each of them without exception to get permission for each and every trip undertaken from the capital to these towns.¹¹⁵

Concerns surrounding the lack of access to Sa’da governorate’s rural areas were heightened by the fact that civilians were often unable to pass through government, Huthi, or tribal checkpoints to reach district towns and access medical services.

Lack of humanitarian access during the fifth round of fighting (May 10, 2008 to July 17, 2008)

During the most recent round of fighting, from May 10 until July 17, 2008, international humanitarian agencies were unable to access any of the estimated 30,000 displaced people living in the rural areas of Sa’da, al-Jauf, and `Amran governorates. The government systematically prohibited almost all travel in rural areas, delaying decisions and negotiations with aid agencies, and turning down individual agency requests for access one by one.¹¹⁶

National aid agencies, including the Yemeni Red Crescent, told Human Rights Watch that they were usually prevented from accessing rural areas at military checkpoints, which allowed them to reach only one or two pockets of civilians on a limited number of occasions.¹¹⁷

Two agencies told Human Rights Watch that even with government permission it was impossible for them to travel during the fighting to Huthi-controlled areas because local tribal leaders (shaikhs), who liaise with the Huthis to guarantee agencies’

¹¹⁵ For example, MSF supported government hospitals in Haidan, Razeh and al-Talh towns with emergency pediatric and maternity care and with surgery. MSF also supported mobile clinics in Dhahyan, a Huthi-controlled village near Al Tahl. After the start of the fifth round of fighting, MSF supported government health care centres in Maran and al-Malaheed towns, including mobile clinics for IDPs close to these towns and supported government-run mobile clinics working near Dhahyan town. Human Rights Watch interview with MSF, San’ā, July 2008.

¹¹⁶ Human Rights Watch interviews, San’ā, July 2008.

¹¹⁷ Human Rights Watch interview with staffer of Yemeni Red Crescent, San’ā, July 29, 2008.

safety, had no means of communication after the government incapacitated the mobile phone network.¹¹⁸

After the fifth round of fighting began in early May 2008, the government broadly prohibited all aid agency staff then in Sa’da town from traveling to nearby rural areas or to access nearby warehouses with food stocks.¹¹⁹

Although one UN agency staffer felt that civilians were able to travel freely from the rural areas to reach assistance in Sa’da town, staffers from other agencies told Human Rights Watch that civilians were prevented at both military and Huthi checkpoints from traveling from their villages to Sa’da town to seek food and medical assistance (see also below under health care). Despite their awareness of this “stuck” civilian population—people who could not stay in their villages due to the violence but who could also not move freely to seek assistance—aid agencies had no way of reaching them.¹²⁰

One aid agency also told Human Rights Watch that, on the exceptional occasions that the Ministry of Interior granted permission to travel to rural areas, soldiers manning military checkpoints refused to let them pass.¹²¹

Closure of the San’ā—Sa’da road: blocking necessities to civilians

The government’s blocking of basic necessities, including both humanitarian assistance and commercial trade, to Sa’da town in mid-2008 amounted to an unlawful restriction on humanitarian access to the civilian population. When carried out in retribution for civilians’ alleged support of the Huthis, it is a form of collective punishment prohibited under international humanitarian law.¹²²

¹¹⁸ Human Rights Watch interviews, San’ā, July 2008.

¹¹⁹ Human Rights Watch interviews, San’ā, July 2008.

¹²⁰ Human Rights Watch interviews, San’ā, July 2008 and telephone interviews, May 2008.

¹²¹ Human Rights Watch interview, San’ā, July 15, 2008.

¹²² See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978, article 4(2)(b). . . .

Beginning around May 12, 2008, following two weeks of heavy fighting in Dhahyan district to the north of Sa’da town, the government turned down all aid agency requests to travel from the capital San’ā to Sa’da town, usually citing insecurity caused by Huthi checkpoints.¹²³ The closure continued until July 20, 2008. As a result, for ten weeks no humanitarian supplies (food, non-food items, and medicine) reached Sa’da, and aid workers in Sa’da town assisting the 60,000 IDPs in the town and the camps there were forced to work with the limited supplies already on hand when the fighting erupted.

During the same period, the government also blocked the movement of all commercial goods, including staple foods and fuel.¹²⁴ A number of sources told Human Rights Watch that between early May and mid-July 2008, no diesel reached Sa’da, and petrol and diesel prices doubled. As a result, diesel-run generators powering Sa’da town were inactive, leading to an electricity blackout for over two months.¹²⁵

Human Rights Watch spoke with a displaced person from Sa’da who said that food and non-food prices had increased significantly during the closure: a bag of wheat increased from 7,000 Yemeni Rial (YER) (US\$35) to YER 21,000 (\$105) while a cooking gas cylinder increased from YER 550 (\$2.75) to YER 2,500 (\$12.50).¹²⁶ According to an employee of one of Sa’da’s hospitals, the price of a 200-liter container of diesel increased from YER 7,500 (\$37.50) to YER 22,000 (\$110).¹²⁷

Sa’da town was not the only area where the government broadly blocked humanitarian aid and commercial traffic. Between May 4 and July 17, fighting spread beyond all 15 districts of Sa’da governorate into other parts of Yemen, including al-Jawf, ‘Amran, Hajja and San’ā governorates. When the conflict reached Bani Hushaish district in San’ā governorate in June 2008, within 20 kilometers of the

¹²³ Human Rights Watch interviews, San’ā, July 2008.

¹²⁴ Human Rights Watch interviews, San’ā, July 2008.

¹²⁵ Human Rights Watch interviews, San’ā, July 2008.

¹²⁶ Human Rights Watch telephone interview, July 20, 2008.

¹²⁷ Maryam Al-Yemeni and Nadia Al-Sakkaf, “Relative optimism as humanitarian aid slowly finds its way to Sa’da,” *Yemen Times*, July 30, 2008, <http://yementimes.com/article.shtml?i=1177&p=front&a=2> (accessed August 11, 2008).

capital, the government imposed a blockade of diesel and food products on the entire civilian population in the district. The measure appears to be unlawful collective punishment. An official from the Sa’da Governor’s office told the media that the aim was “to push the locals to understand that they must cooperate with the state against the Huthis even if they are their relatives or neighbors.”¹²⁸

Access to health care

Yemeni and international medical staff working in Sa’da town’s Republican Hospital continued to work during the fifth round of fighting. However, the San’ā-Sa’da road closure meant that no supplies reached the hospital between early May and late July 2008, leading to shortages, particularly in the hospital’s laboratory. The town’s second hospital, the Saudi-funded Al-Salam Hospital, was closed to civilians in early May 2008 to cope with the high number of military casualties. As a result, the 30-bed Republican Hospital had to cope with an increased number of civilians seeking help. At times staff had to turn people away because of lack of capacity.¹²⁹

Since early in the war, possibly around 2005, the government instructed Ministry of Health staff across Sa’da governorate to report wounded persons seeking help in a government health facility.¹³⁰ During the fifth round of fighting some wounded civilians as well as those with other medical needs opted not to seek medical help, refused transfer between health facilities, and fled health facilities for fear of arrest for being a Huthi rebel or Huthi supporter; some were arrested inside health facilities.¹³¹

For a limited period during the fifth round of fighting, only locals from Sa’da town could access Republican Hospital. An unofficial curfew in effect in Sa’da governorate during the fifth round of fighting precluded civilians traveling after dark for any reason, effectively denying access to civilians from rural areas.¹³² Many people did

¹²⁸ Almigdad Mojalli, “Bani Hushaish residents’ lives deteriorate as security measures escalate,” *Yemen Times*, June 15, 2008, <http://yementimes.com/article.shtml?i=1164&p=front&a=1> (accessed August 30, 2008).

¹²⁹ Human Rights Watch interview, San’ā, July 27, 2008.

¹³⁰ Human Rights Watch interview, San’ā, July 2008.

¹³¹ Human Rights Watch interview, San’ā, July 22, 2008.

¹³² Human Rights Watch interview, San’ā, July 20, 2008.

not even try to reach Sa’da town for emergency medical care, leading, for example, to miscarriages by women with no access to midwives.¹³³

The Islah Charitable Society, a Yemeni NGO related to the Islah Party and working in the health sector, such as with malnourished women and children, carried out limited work in Sahar, al-Zahir, and Malahit districts in Sa’da governorate between January and May 2008, but was unable to access these areas when armed conflict resumed in May 2008.¹³⁴ In June 2008, this NGO was also unable to access a number of “informal gatherings” of IDPs in Bani Sa’d district displaced from the previous (fourth) round of fighting, whom they had been able to reach in early 2008.¹³⁵

Although MSF national staff, working side-by-side with government staff, remained in all of its healthcare projects in Sa’da governorate throughout the fifth round of fighting, the organization evacuated its international staff from Sa’da governorate on June 17, 2008, and published the following article on its website:

Since 10 May, we had been unable to deploy our assistance in satisfactory conditions, whether for treating injured, or assisting displaced persons. It is difficult to know precisely what is happening in the areas of fighting, or areas controlled by the rebellion: access is prohibited for security reasons, there are no independent observers present, and most communication networks are severed. No numbers are available concerning dead or injured. However, the use of heavy weapons, aerial bombardment of villages, and information from other sources all leads to concern over civilian casualties.

Yet most civilians have no access to adequate care structures. Civilians cannot always get to a hospital, either on account of the danger of travelling through the fighting, or because they fear being

¹³³ Human Rights Watch interview, San'a, July 27, 2008.

¹³⁴ Human Rights Watch interview with the Islah Charitable Society, San'a, July 27, 2008. See also “Yemen: Malnourished children in northern province get aid,” IRIN, <http://www.irinnews.org/report.aspx?ReportID=77630> (accessed August 30, 2008).

¹³⁵ Human Rights Watch interview with the Islah Charitable Society, San'a, July 27, 2008.

accused of supporting the rebellion, therefore of being arrested. Even for medical staff, access to hospitals and health centres is complicated, sometimes impossible—this compounds the problems of access to care for the injured...

Furthermore, where we did receive precise information concerning injury victims requiring treatment, we found it impossible to bring them in: this was notably the case at Dhahyan, a village under rebel control, located a ten-minute drive from Al Tahl [al-Talh] (which lies in the government zone). On 11 May, our Yemeni team treated 25 women and children there, who had been injured in shelling. Since their condition demanded evacuation, two ambulances left Al Tahl [al-Talh] to pick them up, after obtaining permission from the authorities. However, on account of heavy firing in the vicinity, the team was unable to evacuate them. The injured were aware that the ambulance had gone back. MSF later learned that seven of these patients died over the next 24 hours.

Another consequence of the war, the most visible so far, is the number of people streaming out towards Saada or Malahit [towns] ... where MSF teams have been able to assess the situation.... [However], we were unable to provide assistance to [these] IDPs for safety reasons and because our discussions with the authorities and other aid agencies in situ were not successful.¹³⁶

Humanitarian access since the end of fighting

Three days after President Saleh declared an end to the fifth round of fighting on July 17, 2008, Minister of Interior Rashad al-Masri met with international humanitarian agencies and announced that they had full and unrestricted access to the whole of Sa'da governorate.¹³⁷

¹³⁶ MSF, "Yemen: War in Saada renders access to injured impossible," June 20, 2008, http://www.msf.org.au/stories/field_update/yemen_170608.shtml (accessed August 30, 2008).

¹³⁷ Human Rights Watch interview San'a, July 20, 2008.

The reality was considerably less open. Agencies had to ask the ministry for permission for each and every trip, a requirement that seriously restricted operational effectiveness.¹³⁸ By the end of August 2008, the ministry had permitted visits to very few areas, citing ongoing fighting and Huthi checkpoints as reasons for denying access.¹³⁹

WFP Yemeni contractors were able to transport food to Sa'da town on July 19, and the first international NGO received permission to travel to Sa'da town on July 27. By July 29, authorities gave the Yemeni Red Crescent permission to enter Sa'da town but nowhere else in the governorate.¹⁴⁰

Around July 20, the UN resident coordinator asked the government for permission for a joint UN agency assessment mission to travel, with armed escorts, to Sa'da town, including to camps on the outskirts of the town, and to Malahit town in al-Zahir district in southwest Sa'da governorate.¹⁴¹ More than two weeks later the authorities granted permission, and the mission took place in mid-August. A humanitarian NGO told Human Rights Watch that at the time local government officials had told them that access to the rural areas near Malahit town was difficult as “even the security forces don't go there” because the Huthis had full control of parts of the surrounding area.¹⁴²

On August 8, three weeks after the official end of fighting, the ICRC stated that “except in Sa'da city and its immediate vicinity, it remains difficult or impossible for the ICRC to operate in the conflict zones of northern Yemen.... [T]he ICRC has so far only provided basic emergency assistance mainly to displaced persons in camps close to the city [of Sa'da].”¹⁴³

¹³⁸ As of October 2008 at least one agency¹⁴⁰ was no longer required to secure permission for each trip. Human Rights Watch telephone interview, San'a, October 21, 2008.

¹³⁹ Human Rights Watch telephone interviews, August 2008.

¹⁴⁰ Human Rights Watch interview, Yemeni Red Crescent, San'a, July 29, 2008.

¹⁴¹ At the end of July 2008, after the height of the fighting in the nearby Haidan district, Malahit town's local IDP committee had registered almost 13,000 IDPs in Malahit town. Confidential Human Rights telephone interview, August 30, 2008.

¹⁴² Human Rights Watch telephone interview, August 20, 2008.

¹⁴³ “ICRC needs better access to people affected by conflict in northern Yemen,” ICRC, August 8, 2008, <http://www.icrc.org/web/eng/siteengo.nsf/htmlall/yemen-news-080808> (accessed August 11, 2008).

This situation is echoed by media reports in late August 2008, according to which members of the government's reconstruction committee stated that "many displaced residents in Haidan and Saqain districts are experiencing harsh living conditions because relief agencies and charitable organizations are concentrating on those refugees living in tents in the suburbs around the provincial capital [Sa'da town]," and that the majority of the displaced were living far from Sa'da town.¹⁴⁴

By September 2008, the government had not granted international agencies access to either Haidan or Saqin districts because of what the authorities said were ongoing skirmishes between the Huthis, tribes, and government forces.¹⁴⁵

In other areas there was some expansion of humanitarian access. In late August 2008 the government granted access to international agencies working in Malahit and Dhahyan town and districts, and to Razih and al-Talh towns. As of late October, however, access to rural areas was extremely limited at best, because of security concerns, restrictive checkpoints, and uncertainty about which areas are under control of government forces, Huthi rebels, or tribesmen from the area.¹⁴⁶

Attacks on humanitarian agencies

Due to the government's information blackout and aid agencies' understandable reluctance to report on incidents involving loss of vehicles or materials, there is little information available on the extent of attacks on humanitarian agencies. However, a number of incidents have been reported.

On May 2, 2007, unidentified parties employed heavy gunfire against a 15-truck humanitarian convoy belonging to the ICRC and the Yemeni Red Crescent, clearly marked with the Red Crescent emblem, 18 kilometers north of Sa'da town. The

¹⁴⁴ Muhammad Bin Sallam, "Amid legal violations in war-ravaged Sa'da, Refugees suffering severe starvation, lack of basic services," *Yemen Times*, August 24, 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/PANA-7HUHJY?OpenDocument> (accessed August 28, 2008).

¹⁴⁵ Human Rights Watch telephone interviews, August 29, 2008.

¹⁴⁶ Human Rights Watch telephone interview, San'a, October 21, 2008.

convoy was carrying emergency supplies for 560 displaced families in Baqim district in northern Sa'da governorate. Two Red Crescent volunteers were injured.¹⁴⁷

In May 2008, pro-government tribes attacked a Yemeni Red Crescent convoy with non-food items in the Huth district of 'Amran governorate. The agency had agreed with the authorities in 'Amran governorate to set up three camps for displaced families. The Yemeni Red Crescent subsequently suspended all activities in 'Amran governorate and was only able to reach the displaced in August 2008.¹⁴⁸ Unidentified parties attacked the Yemeni Red Crescent when it tried to access 600 families in Harf Sufyan during the height of the fighting in June 2008.¹⁴⁹

During the second and third weeks of August 2008 – three weeks after the official end of the fifth round of fighting – unknown parties stole single vehicles from two international humanitarian agencies on the main road from San'a to Sa'da.¹⁵⁰

¹⁴⁷ ICRC, "Yemen: ICRC/Yemeni Red Crescent aid convoy attacked in the north of the country," May 5, 2007, <http://www.icrc.org/web/eng/siteengo.nsf/htmlall/yemen-news-030507?opendocument> (accessed August 31, 2008).

¹⁴⁸ "Yemen: Spotlight on IDPs in Amran Governorate," IRIN, August 18, 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-7HMDRV?OpenDocument&rc=3&cc=yem> (accessed August 30, 2008)

¹⁴⁹ Human Rights Watch interview, San'a, July 2008.

¹⁵⁰ Human Rights Watch telephone interview, August 20, 2008.

VIII. The United Nations and International Donors

The United Nations

Security concerns throughout Yemen have placed all UN staff in the country on heightened security alert. Since the beginning of the armed conflict in 2004, UN agencies have operated in only two towns—Sa’da and Malahit—in the war-torn Sa’da governorate.

After six months of negotiation between the World Food Program (WFP) and the government regarding access to IDP camps in Sa’da town, the UN in June 2007 began to provide assistance to some of the war-affected population.¹⁵¹ Since then, the WFP, which chairs the UN Emergency Response and Preparedness Team, has taken the de facto lead among UN agencies in terms of service provision in Sa’da town, continuing to organize food distribution through its implementing partners, Islamic Relief and the Yemeni Red Crescent.

Since mid-2007, UNICEF has funded four aid agencies to carry out work in Sa’da town’s camps.¹⁵² Since October 2007, UNHCR has also carried out limited distribution of non-food items in Sa’da town’s camps.¹⁵³ By July 2008, UNHCR had international staff on standby to travel and work in Sa’da, including in Yemeni Red Crescent-run camps, to monitor and report on humanitarian needs and other pressing issues. In the absence of other UN agencies such as the Office of the High Commissioner of Human Rights, which has no staff in Yemen, only UNHCR staff are available for possible full-time deployment in Sa’da, including during times of conflict, for identifying assistance needs and other humanitarian concerns.

In mid-July 2008 the UN Office for the Coordination of Humanitarian Affairs (OCHA) sent a staff member to Yemen to improve coordination among UN agencies and between the UN and NGOs working in Sa’da governorate.

¹⁵¹ Human Rights Watch interview with WFP, San’ā, August 21, 2008.

¹⁵² Human Rights Watch interview with UNICEF, San’ā, July 23, 2008.

¹⁵³ Human Rights Watch interview, UNHCR, San’ā, July 14, 2008.

International Donors

Donors to Yemen, including nine European Union (EU) states, Japan, Russia, Saudi Arabia and the United States, have been reluctant to press the government on its conduct of the war and the issue of humanitarian access.¹⁵⁴ The main reason for this reluctance appears to be a belief that Yemen's overriding challenges are security—specifically the fight against al Qaeda, which has a strong presence in Yemen—and development.¹⁵⁵ Despite the humanitarian suffering and the human rights emergency created by four years of war, and despite rule of law initiatives launched by some donors, to date the *the* primary goal of the donors appears to be to stabilize the government's fragile political grip on the country, a goal which they view as incompatible with holding the authorities accountable over their conduct in the war.

This reticence to engage the government over its laws of war obligations, particularly on the question of humanitarian access, is reflected in the wording of the only public document released by the EU since the war started in 2004, a June 2008 declaration of the Council of the European Union:

The EU firmly supports the Government and people of Yemen in addressing the country's economic, political security and social challenges. While acknowledging the need for the Government ... to maintain security within its borders, the EU remains concerned by the recent escalation of fighting around Sa'dah and the expansion of the conflict to the outskirts of San'a and other areas [and] remains ready to consider urgent humanitarian assistance to victims, including the worrying number of IDPs.¹⁵⁶

¹⁵⁴ The nine European Union Member States with embassies in Yemen are Bulgaria, Czech Republic, France, Germany, Great Britain, Italy, the Netherlands, Poland, and Spain. In 2008, the European Union and the United States have limited fresh intervention to granting 1 million Euros to the ICRC and US\$ 1.2 million to the WFP respectively for humanitarian assistance in the war-affected areas. "Yemen: EU Commission allocates €1m for victims of conflict in Sa'da Governorate," *EU*, July 9, 2008, http://www.europa-eu-un.org/articles/en/article_8007_en.htm (accessed August 28, 2008). "United States Government to Give \$1.7 million in Urgent Humanitarian Assistance to Yemen," *US Embassy in Yemen*, July 12, 2008, <http://yemen.usembassy.gov/usghay.html> (accessed August 28, 2008).

¹⁵⁵ Human Rights Watch interviews, San'a, July 2008.

¹⁵⁶ Council of the European Union, "Declaration by the Presidency on behalf of the EU on the deterioration of the security situation in Yemen," June 12, 2008, <http://europa.eu/rapid/pressReleasesAction.do?reference=PESC/08/75&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed August 28, 2008).

The statement said nothing about violations of international humanitarian law by either government forces or the Huthis.

In June and July 2008 some EU member states and the European Commission attempted but failed to adopt a joint EU demarche on the issue of humanitarian access within Sa'da governorate.¹⁵⁷ Shortly thereafter, the US embassy brought together representatives of interested embassies, two UN agencies (WFP and UNDP, the latter as Resident Coordinator, the UN's highest representative in a country), and international NGOs to try to agree on a joint approach towards the Yemeni authorities on the issue of humanitarian access and access to medical relief.

Although participants arrived at a consensus on the main parts of a written text¹⁵⁸, no agreement could be reached on the best format for approaching the authorities, in part because EU states could not agree on whether member states should present a joint front or whether member states could individually sign onto the initiative. Shortly after the question had been resolved at the EU headquarters in Brussels, President Saleh declared an end to the fifth round of fighting on July 17, 2008.¹⁵⁸

¹⁵⁷ Human Rights Watch interview with French Embassy, San'a, July 29, 2008, and confidential Human Rights Watch interviews with Embassies, San'a, July 2008.

¹⁵⁸ Human Rights Watch telephone interview, San'a, September 8, 2008.

IX. Recommendations

To the government of Yemen

- Treat the civilian population under its effective control, including displaced persons, in accordance with international humanitarian and human rights law, including the UN Guiding Principles on Internal Displacement.
- Facilitate rapid and unimpeded passage of impartial humanitarian relief for civilians in need.
- Regularly inform aid agencies which areas of Sa'da governorate and other war-affected governorates are under government or under Huthi control.
- Publicly declare and ensure that national and international aid agencies have full and unhindered access to civilian populations unless imperative military necessity requires temporary restrictions on their movements; when access is denied, provide aid agencies with written explanations.
- Facilitate, by all means possible, including clear instructions to all military checkpoints, aid agencies' unimpeded access to populations in need.
- End all broadly imposed restrictions on the freedom of movement of aid agencies, such as the requirement that aid agencies request permission for every trip taken out of the capital, or the prohibition on movement in rural areas.
- Allow national and international aid agencies to contact community leaders to make arrangements for safe and unhindered access to populations in need, including in Huthi-controlled areas.
- Because of the disproportionate harm to the civilian population and to humanitarian access, immediately and fully reinstate mobile phone network coverage in Sa'da governorate, except in temporary circumstances for reasons of imperative military necessity.
- End any practice of collective punishment of the civilian population and discipline or prosecute as appropriate those responsible for its use.
- Request that the UN Office of the High Commissioner for Human Rights send an exploratory mission to Yemen to help ensure that post-conflict reconstruction and reconciliation incorporates human rights concerns and a mechanism for accountability.

To the Huthis

- Treat the civilian population under their effective control, including displaced persons, in accordance with international humanitarian law and human rights principles, including the UN Guiding Principles on Internal Displacement.
- Facilitate rapid and unimpeded passage of impartial humanitarian relief for civilians in need.
- Publicly declare and ensure that national and international aid agencies have full and unhindered access to civilian populations unless imperative military necessity requires temporary restrictions on their movements; when access is denied, provide aid agencies with adequate explanations.
- End attacks on humanitarian personnel, vehicles and supplies, and take appropriate disciplinary action against Huthi members responsible for such attacks.

To the United Nations

- Publicly as well as privately urge the government and Huthis to treat the civilian population under their effective control, including displaced persons, in accordance with international humanitarian and human rights law, including the UN Guiding Principles on Internal Displacement.
- Engage with all parties to the conflict, including the government, pro-government tribes, and the Huthis, to ensure that they facilitate the full and unimpeded humanitarian access of all UN, national and international aid agencies to civilian populations in accordance with international law.
- Instruct the Resident Coordinator to play a more active and vocal role concerning protection of IDPs and other civilians affected by conflict.
- Call upon the Yemeni government to provide written explanations when it denies access to aid agencies.
- Urge the Yemen government to request that the UN Office of the High Commissioner for Human Rights send an exploratory mission to Yemen to help ensure that post-conflict reconstruction and reconciliation incorporates human rights concerns and a mechanism for accountability.

To International Donors, including the European Union and its Member States, the Arab League and its Member States, and the United States

- Publicly and privately urge the government and Huthis to treat the civilian population under their effective control, including displaced persons, in accordance with international humanitarian and human rights law, including the UN Guiding Principles on Internal Displacement.
- Take concerted action to press the government of Yemen to ensure that aid agencies have full and unimpeded humanitarian access to populations in need, in accordance with international law.
- Include in annual reviews of aid assistance to Yemen an assessment of the government's record on ensuring that humanitarian assistance reaches the war-affected population.
- Urge the Yemen government to request that the UN Office of the High Commissioner for Human Rights send an exploratory mission to Yemen to help ensure that post-conflict reconstruction and reconciliation incorporates human rights concerns and a mechanism for accountability.

XII. Acknowledgments

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Invisible Civilians

The Challenge of Humanitarian Access in Yemen's Forgotten War

Many of the 130,000 people displaced by the armed conflict in northern Yemen remain out of the reach of humanitarian agencies. Caught between government forces and an armed group known as the Huthis, in a conflict ongoing since 2004, these displaced civilians are among the invisible victims of Yemen's forgotten war.

Particularly since 2007, when aid agencies sought to reach all parts of the northern Sa'da governorate, Yemeni authorities severely restricted humanitarian access to tens of thousands of civilians in need. After fighting erupted again in May 2008, the government blocked the movement of all commercial goods, including staple foods and fuel. The Huthis also interfered with humanitarian access to the area. Between February 2007 and July 2008 the government imposed a total information blackout on Sa'da governorate.

Invisible Civilians: The Challenge of Humanitarian Access in Yemen's Forgotten War describes the way parties to the conflict have prevented agencies from reaching tens of thousands of civilians in need of assistance. It is based on a two week investigation in July 2008. Because of government restrictions on travel, Human Rights Watch was unable to access the areas directly affected by the conflict and conducted interviews in Yemen's capital, Sa'na.

When fighting ceased in mid-July 2008, 60,000 displaced persons in seven camps as well as in homes in and around Sa'da town received limited assistance by aid agencies. However, as many as 70,000 others had fled to remote areas or other urban areas, where government restrictions meant aid agencies could not reach them. By late September the government allowed aid agencies access to several towns in Sa'da governorate, but this was insufficient to reach many who remain at risk.

The result of the government's systematic policy of limiting access and information is that tens of thousands of civilians directly affected by the war have been left to suffer, their plight hidden from the rest of Yemen and the outside world. The denial of humanitarian access violates international humanitarian law requiring that authorities permit a civilian population to receive humanitarian relief essential to its survival.

"Together Against the War" campaigners demand humanitarian access to Sa'da governorate outside Yemen's Parliament on June 1, 2008.

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